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1949. **File No.**

Legal Department

Q **BRANCH**

Subject:— Opinions under the Cloth and Yarn (Export Control) Order, 1947

P.3

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C O N T E N T S.

Legal Department File No. O./C& Y C E C) 0/49

Sr. No.	R.I./O.No.	Subject	Pages.
		Opinions under the Cloth and Yarn (Expert Control) Order 1947.	
1.	G/240 28/3/1949	Clause 3(1) Whether there is a primafacie case against the M/s Chunilal Lallubhai Parikwalla for contravention of Clause 3(1).	1-4
2.	G/449 15/6/1949	Do	Do. 5-8

(Copies not made)

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The question for consideration is whether there is a prima facie case against the M/s. Chunilal Lallubhai Jariwala for contravention of clause 3(1) of the Cloth and Yarn (Export Control) Order, 1945.

In this case the Textile Commissioner found that the markings on the cloth meant for export were not as specified in the Government of India, Department of Industries (Commerce - War) Notification No. 67 CW (15B)/45, dated 21-7-1945 issued under sub-clause (1) of clause 3 of the Cloth and Yarn (Export Control) Order, 1945. As no exemption certificate under the proviso to the said sub clause was issued by the Textile Commissioner in respect of this cloth which M/s Chunilal Lallubhai exported to Columba, they have clearly contravened the provisions of clause 3(1) as they have acquired for export and disposed of this cloth which did not conform with the directions issued by the Central Government in the aforesaid notification. It is in evidence that even after the export of the goods M/s. Chunilal Lallubhai sent a reminder to the Textile Commissioner, On 29-3-1946 requesting them again to issue the certificate. The Police Prosecutor construes this reminder in favour of M/s Chunilal Lallubhai saying that as the proprietor of M/s. Chunilal Lallubhai was at Surat, it may be ~~this~~ that Mr. Pahiraj the agent was able to get the exemption certificate or that M/s Chunilal Lallubhai was under a misapprehension that the goods were properly marked and that M/s Chunilal Lallubhai not hearing from Mr. Pahiraj may have written to Textile Commissioner; otherwise according to the Police Prosecutor there is no reason why they should write

a reminder after the goods were shipped. The case against M/s Chunilal Lallubhai is not based on inferences as stated by Police Prosecutor but on the contrary he has in his opinion drawn inference in favour of M/s Chunialal Lallubhai. The Textile Commissioner has been pressing for investigation and any lacuna may be got filled by a reference to him showing that no exemption certificate was issued by his office in respect of these goods. It may be that the goods were inspected by the custom authorities and passed and were covered by a valid expert licence but that does not absolve M/s Chunilal Lallubhai from the necessity of having an exemption certificate under clause 3(1). There is therefore a prima facie case against M/s Chunilal Lallubhai Mr. Pahrakj is not a vailable in India for prosecution and care will have to be taken to see that M/s. Chunilal Lallubhai do not throw the blame on Mr. Pahraj and escape.

Sd/P.M.Lad.
28/3

Remembrancer of Legal Affairs..

U.O.R. to the P.T.C. No. G/240, dated the 28/3/49

VGP. 18-7-56.